

**Amendments to the Drawings:**

The two sheets of drawings attached in the Appendix includes changes to Figs. 1 and 9. These sheets replace the original sheets. The drawings have been changed as follows:

In Figure 1, the reference numbers "16" indicating the base has been changed to --18-- to conform with the specification.

In Figure 9, item "24" has been changed to --20-- and item "122" has been changed to --126--.

## **REMARKS**

This Amendment is responsive to the Office Action mailed February 25, 2005. Claims 1, 8, 22, 29 and 53-72 are amended. New claim 73 is added. Claims 13, 15-17, 33, 42-52, 62 and 66 were withdrawn from consideration. No new matter is added by the Amendment. Claims 1-73 are pending in the application.

### **Election/Restrictions**

In the Office Action, the Examiner stated that claims 13, 15-17 33, 42-52, 62 and 66 were withdrawn from further consideration as being drawn to a non-elected species. In the Response to Election of Species Requirement filed December 9, 2004, Applicant elected species 1b. However, Applicant pointed out that all pending claims 1-72 read on species 1b. Accordingly, Applicants object to the Examiner's selection of claims for withdrawal. The Office Action does not provide a rationale for why these claims do not read on the elected species.

Elected Species 1b specifies the combination of attractant and polystyrene. An embodiment having an attractant and polystyrene included in the insect suppression device can also include any of the features included in any of the other claims, as described in detail in the specification. As a result, all pending claims read on this species. Applicants note that claims restricted to different species must be mutually exclusive according MPEP § 806.04(f). None of claims 1-72 are mutually exclusive with a station having an attractant and polystyrene. Applicants respectfully request an explanation of how the Examiner can consider that the claims that are withdrawn from consideration are mutually exclusive with a station having an attractant and polystyrene. Applicants respectfully request that claims 13, 15-17, 33, 42-52, 62 and 66 be reinstated in the case. In addition, because there are generic linking claims that are allowable, as argued in detail below, Applicants further request these claims be examined.

### **Drawing and Specification Objections**

The drawings were objected to because of mistakes in reference numbering in the Drawings and Specification. The amended Drawings submitted herewith including amended Figure 1 and amended Figure 9 address these issues. Accordingly, the Applicants respectfully request that the objections to the Drawings be withdrawn.

In addition, the Specification was objected to because of various informalities. Applicants respectfully request that the edits made to the Specification herewith address these issues. Accordingly, Applicants request that the objections to the Specification be withdrawn.

### **Claim Rejections under 35 U.S.C. § 112**

Claims 22, 29 and 53 were rejected for problems with antecedent basis. Applicants respectfully submit that amendments made to these claims overcomes these problems. Withdrawal of these objections is respectfully requested.

Many claims were rejected to under 35 U.S.C. § 112 as being indefinite because the Examiner argued that it is unclear as to whether the Applicant is claiming the suppression station or the combination of the suppression station and the suppression devices. Applicants respectfully submit that it is clear which claims require the suppression station and which claims add in the requirement of the suppression devices as well. For example, claim 1 does not require any insect suppression devices while claim 11 does require an insect suppression device. Applicants respectfully request clarification on how this distinction can be more clearly set forth to the Examiner's satisfaction.

### **Claim Rejections under 35 U.S.C. § 102 over Demarest**

Claims 1-12, 14, 18-20, 25 and 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,841,669 to Demarest. Applicants respectfully traverse this rejection. However, in the interest in expediting prosecution, Applicants have amended claim 1 to make it further patentable over Demarest.

Claim 1 specifies that a reusable insect suppression station includes a cover that is attachable to a base. Claim 1 goes onto specify that the cover is movable to allow access to first and second areas within the station for removing or replacing insect suppression devices. Claim 1 has been amended to clarify that the cover must be movable to allow access after the cover is attached to the base.

Demarest describes an insect bait device including identical housing portions 12 and 14 that can be joined together to form an insect bait device. Now referring to Figure 1 of Demarest,

the Examiner interpreted the bottom housing portion 14 of Demarest to meet the requirements of the base of claim 1 and the top housing portion of Demarest to meet the requirements of the cover of claim 1. Applicants respectfully submit that the top housing portion 12 is not movable to allow access to any areas for removing or replacing insect suppression devices after the top housing portion 12 has been attached to the bottom housing portion 14. Accordingly, Demarest does not meet the requirements of element (d) of claim 1. In contrast, Demarest does not describe or mention the top housing portion 12 being removable from the bottom housing portion 14 after they have been attached. Col. 5, lines 38-45 of Demarest describes that the housing portions 12 and 14 can be joined together by conventional means such as sonic welding, radio frequency welding, solvent-bonded welding, heat sealing or suitable adhesives. Demarest does not describe that housing portion 12 can be removed from housing portion 14 after it has been attached to housing portion 14. Accordingly, claim 1 is patentable over Demarest. As a result, dependent claims 2-28 are also patentable over Demarest for at least the same reasons.

Claims 11, 12 and 14 were found by the Examiner to be lacking a structural recitation. Applicants respectfully note that claims 11, 12 and 14 require the presence in the station of the first or second insect suppression device. While claim 1 refers to the first or second insect suppression device in a functional relationship, claim 11 requires the presence of the first or second insect suppression device.

#### **Claim Rejections under 35 U.S.C. § 102 over Johnson**

Claims 1, 3, 29, 30, 53-61, 63-65 and 67-72 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,807,768 to Johnson. Applicants respectfully traverse this rejection. However, in the interest of expediting prosecution, claim amendments have been made that further differentiate the claims from Johnson.

Independent claim 1 specifies an insect suppression station including a cover attachable to a base. The base includes a first area for receiving a first removable and replaceable insect suppression device and the cover includes a second area for receiving the first insect suppression device or a second removable and replaceable insect suppression device. Claim 1 has been amended to further specify that the second area of the cover includes a retaining structure configured to retain the first or second insect suppression device.

Johnson describes a bait station with a screw-off lid. The Examiner argued that the lid 24 of Johnson included a second area located on the underside of the cover for receiving an insect suppression device. There is no teaching in Johnson of the underside of the lid being capable of receiving an insect suppression device. Further, there is no teaching in Johnson of a retaining structure configured to contain an insect suppression device on the underside of the cover of Johnson. Accordingly, claim 1 is patentable over Johnson. As a result, claims 2-28 that are dependent on claim 1 are also patentable over Johnson for at least the same reasons.

Independent claim 29 describes an insect suppression station that includes a structure for deflecting water from the first area that receives an insect suppression device. Claim 29 has been amended to clarify the structure that allows this water deflection. Support for this amendment is found at page 9, lines 7-10 of the original application. Claim 29 specifies that the station defines a frustoconical surface extending from the back side of the station. One example of how such a surface could be implemented is shown in Figure 9 of the application at deflection surface 86.

In contrast, Johnson describes the use of feet 74, shown in Figure 4 to elevate the base from the surface upon which it is mounted. The use of a frustoconical surface instead of Johnson's feet provides the advantage of easier access to the insect suppression stations of claim 29 by insects. Because the structure shown in Johnson is elevated from the mounting surface by the feet, the bait within the structure would be more difficult for insects to access to compared to the use of an angled surface. Because the bait station of Johnson is intended for use for rodents, is not concerned with the accessibility of the bait to insects. Because Johnson does not include, describe or teach a frustoconical surface extending from a back surface to deflect water from insect suppression devices, claim 29 is clearly patentable over Johnson. As a result, dependent claims 30-41 are also clearly patentable for at least the same reasons.

Independent claim 53 relates to an insect station for providing access behind a mounting surface. In order to facilitate access to the area behind a wall, the insect station of claim 53 includes a base having an access opening for positioning over an opening in the wall to provide access to the space behind the wall. Claim 53 also specifies that the access opening provides access to the hole in the mounting surface when the base is mounted on the mounting surface using the mounting structure. An example of such an access opening is shown in the patent

application as originally filed at Figure 9, element 60. In addition, Figure 11 shows how a base with an access opening 60 could be used to provide access to an area behind a wall 80. These Figures illustrate one example of how an insect station system according to claim 53 could be configured and used.

Johnson describes a base including a fastening segment 72 which can allow a fastener to extend through it. In the Rejection, the Examiner argued that if the base of Johnson is mounted on a wall using adhesive, then the opening of fastener segment 72 satisfies the requirement of an access opening in claim 53. However, claim 53 requires a mounting surface having a hole and a base positioned with an access opening over this hole. Johnson does not include any teaching of mounting the base on a mounting surface so that the fastener segment 72 is positioned over a corresponding hole in the mounting surface. Accordingly, Applicants respectfully submit that claim 53 and depend claims 54-72 are patentable over Johnson.

#### **Claim Rejections under 35 U.S.C. § 102 over Duston**

Claims 1 and 24-28 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,796,082 to Duston. Applicants respectfully traverse the rejection. Claim 1 has been amended to clarify its meaning.

Claim 1 relates to an insect suppression station including a base that is mountable on a mounting surface. In contrast, Duston includes a spike or elongated stake 4. Duston, Col. 2, lines 64-65. The station described in Duston is adapted for use outdoors where it is anchored in the ground using the spike 4. Duston, Col. 1, lines 5-8. Duston includes a bait well 12 for holding insect bait. Duston does not describe that it can be mounted on a surface.

As a result, claim 1 is patentable over Duston. In addition, claims 2-28 are also patentable over Duston for at least the same reasons.

#### **Claim Rejections under 35 U.S.C. § 103**

Claim 21 is rejected under 35 U.S.C. § 103 as being unpatentable over Demarest in view of U.S. Patent No. 6,789,352 to Price. Applicants respectfully traverse the rejection.

In the Office Action, the Examiner argued that Demarest discloses the invention substantially as claimed with the exception of an outer domed portion. The Examiner asserts that Price teaches the use of an outer domed portion to help deflect water and other debris from the station. The Examiner concludes that it would have been obvious to use the domed portion as taught by Price with the device disclosed by Demarest in order to deflect water.

Claim 21 is patentable over the cited references for several reasons. First, Demarest does not disclose a cover that can be moved to allow access to an insect suppression device after the cover has been attached to a base. This difference between claim 1 and Demarest is discussed in further detail above. In addition, it is not obvious to modify Demarest in view of Price because Demarest explicitly teaches away from modifying the station described in Demarest to include a domed outer cover. Demarest describes the advantages of having identical top and bottom housing portions 12 and 14. For example, at Col. 7, lines 47-50 Demarest mentions that one feature of the Demarest invention is the cost and processing efficiencies that result from an insect bait device housing that is fabricated using substantially identical housing portions. This advantage would be lost if the Demarest invention was made to use a domed portion as taught by Price. Accordingly, it would not have been obvious to modify Demarest to include a domed portion. Claim 21 is therefore patentable over the prior art for this additional reason.

Claims 22 and 23 were rejected under 35 U.S.C. § 103 as being unpatentable over Johnson as applied to claims 1 and 3 above. The Office Action argues that it would have been obvious to include the additional features of claims 22 and 23 relating to mounting devices in the station taught by Johnson. Applicants respectfully traverse this rejection. Claims 22 and 23 are patentable over the prior art for at least the reason that Johnson does not teach the features of claim 1 such as having a second area for receiving a second insect suppression device and having a retaining structure configured to retain the first or second insect suppression device.

Claims 29, 31, 32, 34-39 and 41 were rejected under 35 U.S.C. § 103 as being unpatentable over Demarest in view of Johnson. Applicants respectfully traverse the rejection. As discussed above, Johnson does not teach a frustoconical surface extending from the back side to deflect water running down the planar surface from the first area, as required by claim 29.

Accordingly, for at least this reason, claim 29 and dependent claims 30-41 are also patentable over the cited references.

Claim 40 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Demarest as applied to claim 39 and further in view of U.S. Patent No. 6,378,243 to Snell. Claim 40 incorporates the limitations of claims 39 and 29. As discussed above, Demarest as modified by Johnson does not teach the elements of claim 39, and therefore the rejection of claim 40 must also be withdrawn.

### Conclusion

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: May 25, 2005

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